

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BONIFACIO CARLOS-TOFOLLA,

Petitioner,

v.

DAVID BREWER,

Respondent.

No. 2:22-cv-01742-DAD-SCR

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
HABEAS PETITION

(Doc. No. 6)

Petitioner Bonifacio Carlos-Tofolla is a federal prisoner proceeding *pro se* with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 19, 2024, the assigned magistrate judge ordered petitioner to submit an affidavit in support of his request to proceed *in forma pauperis* or the appropriate filing fee within thirty days of the entry of that order. (Doc. No. 5 at 1.) Petitioner was cautioned that failure to comply with that order would result in a recommendation that this action be dismissed. (*Id.*) To date, petitioner has not filed either an affidavit in support of his request to proceed *in forma pauperis* or the requisite filing fee.

On June 7, 2024, the assigned magistrate judge issued findings and recommendations recommending that this action be dismissed without prejudice due to petitioner's failure to comply with the court's order. (Doc. No. 6.) The findings and recommendations were served

1 upon petitioner and contained notice that any objections thereto were to be filed within fourteen
2 (14) days after service. (*Id.* at 1.) To date, petitioner has not filed any objections and the time in
3 which to do has passed.

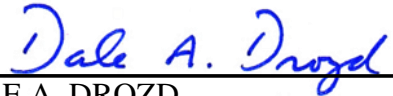
4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
5 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
6 pending findings and recommendations are supported by the record and proper analysis.

7 Accordingly,

- 8 1. The findings and recommendations issued on June 7, 2024 (Doc. No. 6) are
9 adopted in full;
- 10 2. The petition for writ of habeas corpus (Doc. No. 1) is dismissed, without
11 prejudice;¹
- 12 3. The Clerk of the Court is directed to close this case.

13 IT IS SO ORDERED.

14 Dated: **December 6, 2024**

15 
16 DALE A. DROZD
17 UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25

26 ¹ Because petitioner is a federal prisoner bringing a § 2241 petition, a certificate of appealability
27 is not required. *See Harrison v. Ollison*, 519 F.3d 952, 958 (9th Cir. 2008) (“The plain language
28 of [28 U.S.C.] § 2253(c)(1) does not require a petitioner to obtain a COA in order to appeal the
denial of a § 2241 petition.”).